

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE NATIONAL PRESCRIPTION
OPIATE LITIGATION

This document relates to:
Case No. 18-op-45090

THE COUNTY OF SUMMIT, OHIO;
SUMMIT COUNTY PUBLIC HEALTH; THE
CITY OF AKRON; THE CITY OF
BARBERTON; THE VILLAGE OF BOSTON
HEIGHTS; BOSTON TOWNSHIP; THE
VILLAGE OF CLINTON; COPLEY
TOWNSHIP; COVENTRY TOWNSHIP; THE
CITY OF CUYAHOGA FALLS; THE CITY
OF FAIRLAWN; THE CITY OF GREEN;
THE VILLAGE OF LAKEMORE; THE
VILLAGE OF MOGADORE; THE CITY OF
MUNROE FALLS; THE CITY OF NEW
FRANKLIN; THE CITY OF NORTON; THE
VILLAGE OF PENINSULA; THE VILLAGE
OF RICHFIELD; THE VILLAGE OF
SILVER LAKE; SPRINGFIELD TOWNSHIP;
THE CITY OF STOW; THE CITY OF
TALLMADGE; VALLEY FIRE DISTRICT;
STATE OF OHIO EX REL., PROSECUTING
ATTORNEY FOR SUMMIT COUNTY,
SHERRI BEVAN WALSH, THE DIRECTOR
OF LAW FOR THE CITY OF AKRON, EVE
BELFANCE, THE DIRECTOR OF LAW
FOR THE CITY OF BARBERTON, LISA
MILLER, THE DIRECTOR OF LAW FOR
THE CITY OF TALLMADGE, MEGAN
RABER; THE LAW DIRECTOR FOR THE
CITY OF CUYAHOGA FALLS, RUSS
BALTHIS, THE LAW DIRECTOR FOR THE
CITY OF FAIRLAWN, BRYAN NACE, THE
LAW DIRECTOR FOR THE CITY OF
GREEN, INTERIM LAW DIRECTOR BILL
CHRIS, THE LAW DIRECTOR FOR THE
CITY OF MOGADORE, MARSHAL M.
PITCHFORD, THE LAW DIRECTOR FOR
THE CITY OF MUNROE FALLS, TOM

MDL No. 2804

Case No. 17-md-2804

Judge Dan Aaron Polster

**MOTION OF CERTAIN PLAINTIFFS
FOR VOLUNTARY DISMISSAL
WITHOUT PREJUDICE AND
INCORPORATED MEMORANDUM IN
SUPPORT**

KOSTOFF, THE LAW DIRECTOR FOR THE CITY OF NEW FRANKLIN, THOMAS MUSARRA, THE LAW DIRECTOR FOR THE CITY OF NORTON, JUSTIN MARKEY; THE LAW DIRECTOR FOR THE CITY OF STOW, AMBER ZIBRITOSKY; THE VILLAGE SOLICITOR FOR THE VILLAGE OF BOSTON HEIGHTS, MARSHAL PITCHFORD, THE SOLICITOR FOR BOSTON TOWNSHIP, ED PULLEKINS, SOLICITOR FOR THE VILLAGE OF CLINTON, MARSHAL PITCHFORD, THE LAW SOLICITOR FOR COPLEY TOWNSHIP, IRV SUGARMAN, THE LAW SOLICITOR FOR COVENTRY TOWNSHIP, IRV SUGARMAN, THE LAW SOLICITOR FOR THE VILLAGE OF LAKEMORE, IRV SUGARMAN, THE SOLICITOR FOR THE VILLAGE OF PENINSULA, BRAD BRYAN, THE LAW SOLICITOR FOR THE VILLAGE OF RICHFIELD, WILLIAM HANNA, THE SOLICITOR THE VILLAGE OF SILVER LAKE, BOB HEYDORN, AND THE ADMINISTRATOR & LEGAL COUNSEL FOR SPRINGFIELD TOWNSHIP, WARREN PRICE,

Plaintiffs,

vs.

PURDUE PHARMA, L.P.; PURDUE PHARMA, INC.; THE PURDUE FREDERICK COMPANY, INC.; ENDO HEALTH SOLUTIONS INC.; ENDO PHARMACEUTICALS, INC.; PAR PHARMACEUTICAL, INC.; PAR PHARMACEUTICAL COMPANIES, INC. F/K/A PAR PHARMACEUTICAL HOLDINGS, INC.; JANSSEN PHARMACEUTICALS, INC.; ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS, INC. N/K/A JANSSEN PHARMACEUTICALS, INC.; / JANSSEN PHARMACEUTICA, INC. N/K/A JANSSEN

PHARMACEUTICALS, INC.; JOHNSON & JOHNSON; NORAMCO, INC.; TEVA PHARMACEUTICAL INDUSTRIES, LTD.; TEVA PHARMACEUTICALS USA, INC.; CEPHALON, INC.; ALLERGAN PLC F/K/A ACTAVIS PLC; ALLERGAN FINANCE LLC, F/K/A/ ACTAVIS, INC., F/K/A WATSON PHARMACEUTICALS, INC.; WATSON LABORATORIES, INC.; ACTAVIS LLC; ACTAVIS PHARMA, INC. F/K/A WATSON PHARMA, INC; INSYS THERAPEUTICS, INC., MALLINCKRODT PLC; MALLINCKRODT LLC; SPECGX LLC, AMERISOURCEBERGEN DRUG CORPORATION; ANDA, INC.; CARDINAL HEALTH, INC.; CVS HEALTH CORPORATION; DISCOUNT DRUG MART, INC.; HBC SERVICE COMPANY; HENRY SCHEIN, INC.; HENRY SCHEIN MEDICAL SYSTEMS, INC.; MCKESSON CORPORATION; MIAMI-LUKEN, INC.; PRESCRIPTION SUPPLY, INC.; RITE AID CORPORATION.; RITE AID OF MARYLAND, INC.; D/B/A RITE-AID MID-ATLANTIC CUSTOMER SUPPORT CENTER, INC; WALGREENS BOOTS ALLIANCE, INC. A/K/A WALGREEN CO., AND WALMART INC. F/K/A WAL-MART STORES, INC.,

Defendants.

Pursuant to Federal Rule of Civil Procedure 41(a)(2), Plaintiffs Summit County Public Health, the City of Barberton, the Village of Boston Heights, Boston Township, the Village of Clinton, Copley Township, Coventry Township, the City of Cuyahoga Falls, the City of Fairlawn, the City of Green, the Village of Lakemore, the Village of Mogadore, the City of Munroe Falls, the City of New Franklin, the City of Norton, the Village of Peninsula, the Village of Richfield, the Village of Silver Lake, Springfield Township, the City of Stow, the City of Tallmadge, and

Valley Fire District, as well as, for purposes of the statutory public nuisance claim, the State of Ohio to the extent the claim is asserted by the chief legal officers of the foregoing entities acting in their official capacity (collectively, the “Moving Plaintiffs”), hereby move for voluntary dismissal of their claims, without prejudice and with leave to refile a separate complaint within 30 days, which complaint shall relate back for all purposes to the date of the original filing of the above-captioned action. In support of this motion, the Moving Plaintiffs state as follows:

On May 25, 2018, the Court ordered that Plaintiff Summit County file, no later than 12 noon ET on Thursday, May 31, 2018, an Amended Complaint with only Summit County as the Plaintiff, and further directed that absent such a filing, this case would be withdrawn from the Track One cases heading to trial in March 2019. Doc. 492.¹ Following a status conference with the court, the Moving Plaintiffs seek to be severed from the existing action, while retaining the right to refile their claims in a separate action within 30 days that would relate back to the date on which the present suit was filed.

To protect the rights of the Moving Plaintiffs, any dismissal must be without prejudice and must ensure that a separate action subsequently filed on the Moving Plaintiffs’ behalf will relate back for all purposes to the date of the original complaint in this action—which was filed in the Court of Common Pleas of Summit County on December 20, 2017. The Moving Plaintiffs therefore respectfully request that the Court dismiss their claims without prejudice, with leave to refile within thirty (30) days a new complaint, which shall relate back, for all purposes, to the date of the original complaint in the existing action.

¹ Unless otherwise noted, all references to “Doc. ___” are to the master docket in *In re: National Prescription Opiate Litig.*, Case No. 1:17-MD-2804 (DAP) (N.D. Ohio).

Respectfully submitted,

Dated: May 31, 2018

/s/ Linda Singer

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Attorneys for the Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of May, 2018, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF System. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF System.

/s/ Linda Singer

Linda Singer

Attorney for the Plaintiffs